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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,781	02/13/2001	Evan Sundquist		7871

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EXAMINER

NORDMEYER, PATRICIA L

ART UNIT PAPER NUMBER

1772

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,781

Applicant(s)

SUNDQUIST, EVAN

Examiner

Patricia L. Nordmeyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 18, 2003 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "extending in substantially continuous unbroken" was added to the claim during the last amendment. There appears to be no support from the specification for this limitation.

Correction/clarification is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones, Sr. (USPN 3,784,998).

Jones, Sr. discloses a wiper made from sheet material (Column 2, lines 15 – 16 and Figure 2, #18) having six contiguous edges of equal length that defines a hexagonal shape (Figure 1) that define the edges of the two opposing faces with interior portions (Figure 2, #12 and the bottom of the stack, #18). The sheet material is either woven or non-woven and made with cotton or synthetic fibers (Column 2, lines 29 – 32). However, Jones, Sr. fails to disclose a hexagonal edge boundary extending in substantially continuous unbroken relation around said interior portion. The slits in the pad of Jones, Sr. are formed in order to make the handle of the applicator and are continued through the thickness of the layers (Column 2, lines 18 – 23). One of ordinary skill in the art would recognize that the handle of the applicator is an unnecessary addition and may be removed; thereby removing the presences of the slits and forming an unbroken boundary extending around the outer edge of the applicator.

6. Claims 1, 2, 4, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morin et al. (USPN 6,189,189).

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Morin et al. discloses a wiper (Column 1, lines 5 – 7) made from knitted or woven fibers of polyester or poly(ethylene terephthalate), synthetic filaments, and from yarn (Column 2, lines 54 – 57). The wiper may be cut into any geometric shape (Column 3, lines 55 – 56), and therefore, it would be obvious to one of ordinary skill in the art to form a hexagonal shape having six contiguous sides of equal length. The wiper inherently has interior portions defined by two opposing faces, or surfaces when it is formed since it is formed by a single layer of material (Column 7, lines 41 – 42) having a continuous unbroken relation around the interior portion (Column 3, lines 55 – 56).

It is well settled that a particular shape of a prior invention carries no patentable weight unless the applicant can demonstrate that the new shape provides significant unforeseen improvements to the invention. See *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947) Also, see *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) In the instant case, the application does not indicate any new, significant attributes of the invention due to its shape which would have been unforeseen to one of ordinary skill in the art. Furthermore, Morin et al. clearly teaches that the wiper may be cut into any geometric shape as discussed earlier. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to change the shape of the wiper to have six edges. One skilled in the art would have been motivated to do so in order to have any geometrical shape that appealed to the user.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 2, 28 and 29 as anticipated by Jones, Sr. in Paper #13 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments with respect to claims 1, 2, 4, 27 and 28 over Morin et al. have been considered but are moot in view of the new ground(s) of rejection. However, since the prior art was used in the above rejection, the arguments will be responded to below.

In response to Applicant's argument that Morin et al. fails to teach the hexagonal shape and the respective advantages gained by the shape while promoting the use of a square shaped wiper, Morin et al. clearly states that any geometric shape may be used for the wipes (Column 3, lines 55 – 56). One of ordinary skill in the art would have recognized the gained advantages by the hexagonal shape, shorter perimeter edges while having a greater interior surface area which leads to less contamination, since one of ordinary skill could use known general geometry formulas to compare the surface areas to the edge perimeter. Therefore, one of ordinary skill in the art could readily determine the optimum shape to have a greater surface area with less contamination.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (703) 306-

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5480. The examiner can normally be reached on Mon.-Thurs. from 7:00-4:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (703) 308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Patricia L. Nordmeyer
Examiner
Art Unit 1772

pln
pln


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

11/6/03